

Service Date: July 6, 1990

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER Of the Application)	UTILITY DIVISION
of U S West Communications for)	
Forbearance of Rate Regulation)	DOCKET NO. 90.5.29
RE: Credit Associates, Inc., et al.)	
<hr/>		ORDER NO. 5481

FINAL ORDER

FINDINGS OF FACT

On April 30, 1990, U S West Communications (USWC) filed an application with the Montana Public Service Commission (MPSC or Commission) requesting forbearance of rate regulation for the provision of IntraLATA Message Telecommunications Service (MTS), Outward Wide Area Telecommunications Service (OutWATS) and 800 Service to Credit Associates, Inc., Statewide Recovery, Inc., Credit Bureau of Montana - Eastern Division, Credit Bureau of Montana - Central Division, and Innermountain Collections, pursuant to Section 69-3-808, MCA.

On May 7, 1990, at a duly noticed work session, the Commission deferred action on this matter for five days pursuant to Section 69-3-808 (3), MCA. (Order No. 5472).

On May 15, 1990, at a duly noticed work session, the Commission GRANTED USWC's April 30, 1990 forbearance application. A Notice of Commission Action was issued May 17, 1990.

The Commission finds that the application is complete and a viable competitive offer exists, as required by Section 69-3-808 and ARM 38.5.2715.

Although the forbearance statute (Section 69-3-808, MCA) may not permit analysis of the economic merits of USWC's discounted sales prices in considering the forbearance application itself, the Commission intends to analyze the merits of such discount prices in later dockets. There is absolutely no evidence in the instant or past forbearance applications that prices resulting from a negotiated contract or contracts for the services listed herein or in past applications will cover relevant economic costs. Further, no economic costs studies have been accepted by this Commission for USWC's toll services (see Order Nos. 5354d and 5354e, Docket No. 88.1.2). Therefore, USWC is hereby put on notice that to the extent any such sales prices resulting from a negotiated contract for the services listed herein fall below the Commission's estimate of relevant marginal costs, the resulting shortfall shall be borne by USWC shareholders.

In addition to granting USWC forbearance in the instant docket, the Commission will again address the burden of proof issue. This is not the first time the Commission has addressed this issue (see, for instance, Docket No. 90.3.18). ARM 38.5.2715 (2) states that forbearance application decisions shall be based upon whether a viable and competitive offer for service listed in the application exists, and the burden of proof that such competition exists is borne by the applicant. The Commission has decided past forbearance applications based on information sought through data requests served on potential competitors and/or customers for which forbearance has been requested. The Commission has previously held that such information should be provided by the applicant (see FOF 5, Order No. 5464, Docket No. 90.3.18). However, based on the record in this docket, the Commission notes that the applicant may not have access to all of the information which would be helpful to the Commission in analyzing forbearance applications.

Therefore, based upon FOF 6, above, and the concerns expressed by the Company in this docket regarding the forbearance application process, the Commission believes it may be possible to improve the forbearance application process so that it is more efficient and responsive to the needs of both the applicant and the Commission. The Commission will seriously consider the initiation of a rulemaking proceeding to require forbearance applicants to file a sworn affidavit, signed by the customer, with each forbearance application. Although the complete contents of such affidavits has not yet been completely determined, such affidavits may include a description of the services for which requests for proposals (RFPs) have been issued, a list of alternative providers who have submitted bids based upon the RFPs, the dates bids are due or were received, and the time frame within which the customer may accept the bids received. The Commission will also study other possible revisions to the forbearance rules and approval process.

CONCLUSIONS OF LAW

1. USWC provides regulated telecommunications services within the state of Montana and is a public utility under the regulatory jurisdiction of the Montana Public Service Commission, Sections 69-3-101 and 69-3-803(3), MCA.
2. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA.
3. USWC's application contained the information required by Section 69-3-808, MCA and ARM 38.5.2715.
4. Similar telecommunications service is being offered to the customer by a party other than the Applicant. Section 69-3-808(3), MCA.

ORDER

1. USWC is GRANTED FORBEARANCE of rate regulation with respect to the provision of intraLATA MTS, Outward Wide Area Telecommunications Service (OutWATS), and 800 Service to Credit Associates, Inc., et al.
2. This docket is closed.

Done and Dated this 25th day of June, 1990 by a 4 - 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Commissioner

DANNY OBERG, Commissioner

JOHN B. DRISCOLL, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.